

February 8, 2008

Stephen McDonald
74 North Court
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Appeal, Map 1-9, Plat/Block 89, Card/Lot 32A

Dear Mr. McDonald:

The following is the decision on your petition heard by the Zoning Board of Review (hereinafter, the "Board") on February 6, 2008 appealing a decision of the Tiverton Building Official issued on August 21, 2007 and again on November 5, 2007 that certain property you own located at 2160 Main Road, Tiverton, Rhode Island, at Map 1-9, Plat/Block 89, Card/Lot 32A (the "Premises") in a Waterfront district was being used in violation of a decision rendered by the Board at their meeting on August 27, 2004 and recorded in the Tiverton Land Evidence records at Book 935, Page 174; to wit, that two dumpsters were located on the Premises, that outdoor seating was available on the Premises and that the business located on the Premises was open between 3 and 6 p.m. (the "Decision").

After the testimony and evidence was presented to the Board by the petitioner, supporters of the business and objectors at the public hearing for which due notice was given and a record kept, the Board found that the petitioner showed sufficient evidence that the Building Official's Decision was in error. The Board found that the evidence and argument presented by the petitioner's representative conclusively showed that the Decision did not prohibit dumpsters or outdoor seating from being located on the Premises and that the hours of the business operation were not limited. The Board also concluded that it was unreasonable to expect or require a property owner to find and read transcripts of a Board hearing to determine whether their current use or proposed use of a property was allowed. Based on the foregoing, the Board voted four in favor and one opposed to grant your appeal of the Building Official's Decision.

This decision must be recorded in the Land Evidence Records in the Town Clerk's Office. (Please note that the appeal period (20 days) begins only after this decision is recorded and posted with the Town Clerk's Office).

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

Recorded 2-11-08
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